

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE**

**NATIONAL BOARD OF MEDICAL
EXAMINERS *et al.*,**

Plaintiffs,

V.

Civil Action No. 09-1043-JDB

OPTIMA UNIVERSITY LLC *et al.*,

Defendants.

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56, Plaintiffs National Board of Medical Examiners (“NBME”) and the Federation of State Medical Boards (the “Federation”) (collectively, “Plaintiffs”) hereby move the Court for summary judgment that Optima University LLC (“Optima”) and Eihab Mohamed Suliman (“Suliman”), (collectively, “Defendants”) are liable for direct and contributory infringement of Plaintiffs’ copyrights.

As relief, the Plaintiffs respectfully request the following:

1. An award of statutory damages in favor of Plaintiffs, as authorized by 17 U.S.C. § 504(c), in the total amount of \$2,400,000 based on Defendants' willful infringement of Plaintiffs' copyrights;

2. A permanent injunction, as provided by 17 U.S.C. § 502, that (a) prohibits the Defendants, their employees, and their agents from infringing in any manner the Plaintiffs' copyrights by copying, duplicating, distributing, posting, displaying, advertising, selling, adapting, publishing, reproducing, preparing derivative works based

on, renting, leasing, offering or otherwise transferring or communicating in any manner, orally or in written, printed, audio, electronic, photographic, machine-readable, or any other form, including but not limited to any publication on the internet, or communication to any agent, representative, employee, member, person or affiliate, or in written or downloadable electronic materials, any test questions or answers that are identical or substantially similar to actual, copyrighted test questions or answers from any United States Medical Licensing Examination (“USMLE”) or to any other copyrighted USMLE material, or aiding, abetting, enabling or authorizing any other person to do the same; (b) prohibits Defendants, their employees, and their agent from taking any USMLE examinations for any purpose other than to satisfy a requirement of a medical school for advancement or to obtain a license to practice medicine; and (c) prohibits Defendants from attempting to subvert any USMLE examination by aiding or abetting others in the infringement of any copyrighted USMLE materials;

3. An order, as provided by 17 U.S.C. § 503, requiring the Defendants to provide to Plaintiffs’ counsel, for destruction, all copies of all documents, in paper or electronic format, that include any of Plaintiffs’ copyrighted USMLE materials, including but not limited to test questions or test answers;

4. An award of all costs incurred in this action by Plaintiffs, including reasonable attorney’s fees, as provided by 17 U.S.C. § 505; and

5. All other relief as this Court deems just and proper.

A Memorandum of Law in Support of Plaintiffs’ Motion for Summary Judgment, a Statement of Material Facts in Support of Plaintiffs’ Summary Judgment Motion, and

supporting declarations and exhibits are being filed with this Motion, along with proposed findings of fact and conclusions of law.

Wherefore, Plaintiffs respectfully request that the Court grant their motion, enter summary judgment in favor of the Plaintiffs, and enter corresponding findings of fact and conclusions of law.

January 20th, 2011

Respectfully submitted,

s/ Russell E. Reviere

Russell E. Reviere, 7166
Rainey, Kizer, Reviere & Bell, P.L.C.
209 East Main Street
P.O. Box 1147
Jackson, TN 38301-1147
(731) 423-2414
rreviere@raineykizer.com

Robert A. Burgoyne
Caroline M. Mew
FULBRIGHT & JAWORSKI L.L.P.
801 Pennsylvania Avenue, NW
Washington, DC 20004-2623
(202) 662-0200
rburgoyne@fulbright.com
cmew@fulbright.com

*Counsel for Plaintiffs National Board of
Medical Examiners and Federation of State
Medical Boards*

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served on the following via regular mail and this Court's ECF system:

Eihab Suliman
1774 Hwy 22
McKenzie, TN 38201

James H. Bradberry
P.O. Box 789
Dresden, TN 38225

This the 20th day of January, 2011.